

REMARKS

Claims 1-18 are pending in the Application. Claim 1 is an independent claim and claims 2-5 and 16 depend therefrom. Claim 6 is an independent claim and claims 7-10 and 17 depend therefrom. Claim 11 is an independent claim and claims 12-15 and 18 depend therefrom. The Applicant respectfully requests that the application be reconsidered in view of the following remarks.

Rejections Under 35 U.S.C. §103(a) – Oh in view of Belknap (Claims 1, 4-6, 9-11 & 14-18)

In point 4 on pages 4-7 of the non-final Office Action, independent claims 1, 6 and 11 and dependent claims 4-5, 9-10 and 14-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oh et al (U.S. Patent No. 5,781,696, hereinafter “Oh”), in view of Belknap, et al (U.S. Patent No. 7,356,245, hereinafter “Belknap”). The Applicant respectfully traverses the rejections for at least the following reasons.

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 (“MPEP”) states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that “rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious

unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

- The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

Regarding claims 1 and 6, the Applicant respectfully submits that the combination of Oh and Belknap fails to teach, suggest, or disclose, for example, “applying a window function to the remaining frames,” as set forth in Applicant’s independent claims 1 and 6. With regard to claim 11, the Applicant respectfully submits that the combination of Oh and Belknap fails to teach, suggest, or disclose, for example, “the at least one controller configured to apply a window function to the remaining frames,” as set forth in Applicant’s amended, independent claim 11.

The non-final Office Action states that “Re claims 1, 6, and 11, Oh teaches...applying a window function to the remaining frames (col. 5, line 65 through col. 6, line 2).” (Non-Final Office Action, Pages 4-5). However, the cited section of Oh only discloses applying a window function to the audio characteristics component. For example, Oh states that “[t]he **audio characteristic control unit of the pitch modulating unit 4** performs a signal modulation by applying a window function.” (Oh, Column 5, Line 66 through Column 6, Line 1). However, as shown in Oh’s FIG. 4 and described in Oh’s Column 5, Lines 41-49, Oh only applies the window function on the audio characteristics component. Applicant’s independent claims 1 and 6 recite “skipping frames...; applying a window function **to the remaining frames.**” Further, Applicant’s independent claim 11 recites “the at least one controller configured to skip frames...; the at least one controller configured to apply a window function **to the remaining frames.**” Oh fails to disclose “applying a window function **to the remaining frames**” (i.e., the frames that were not skipped). Nowhere in Oh is there any disclosure regarding applying a window function to the speech source components not deleted by the speech source modulating unit of the pitch

modulating unit 4. Thus, Oh fails to disclose “applying a window function **to the remaining frames**,” as set forth in Applicant’s independent claims 1 and 6. Further, for similar reasons as claims 1 and 6, Oh fails to disclose “the at least one controller configured to apply a window function to the remaining frames,” as set forth in Applicant’s amended, independent claim 11.

Belknap fails to remedy the deficiencies of Oh. In fact, nowhere in Belknap is there any disclosure regarding “a window function” let alone “apply[ing] a window function **to the remaining frames**,” as set forth in Applicant’s independent claims 1, 6 and 11. The non-final Office Action appears to cite Belknap for disclosure regarding skipping frames (*See Non-Final Office Action*, Pages 3-4 and 5-6); however, Belknap adds nothing to Oh, which discloses “a doubling of the audio play-back speed is achieved by selecting every other speech source....” (Oh, Column 5, Lines 61-63). Thus, the combination of Oh and Belknap fail to disclose “apply[ing] a window function to the remaining frames,” as set forth in Applicant’s independent claims 1, 6 and 11.

Therefore, for at least the above stated reasons, Applicant respectfully submits that the combination of Oh and Belknap fails to teach, suggest, or disclose Applicant’s invention as set forth in claims 1, 6 and 11. The Applicant believes that claims 1, 6 and 11 are allowable over the combination of Oh and Belknap. Applicant respectfully submits that claims 1, 6 and 11 are independent claims, and that claims 2-5 and 16, 7-10 and 17, and 12-15 and 18 depend either directly or indirectly from independent claims 1, 6 and 11, respectively. Because claims 2-5 and 16, 7-10 and 17, and 12-15 and 18 depend from claims 1, 6 and 11, respectively, Applicant respectfully submits that claims 2-5, 7-10 and 12-18 are allowable over the combination of Oh and Belknap, as well. The Applicant further submits that each of claims 2-5, 7-10 and 12-18 is independently allowable. The Applicant respectfully requests, therefore, that the rejection of claims 1, 4-6, 9-11 and 14-18 under U.S.C. §103(a), be withdrawn.

Rejections Under 35 U.S.C. §103(a) – Oh, Belknap and Tsushima (Claims 2-3, 7-8 & 12-13)

In Point 5 on Pages 8-10 of the non-final Office Action, claims 2-3, 7-8 and 12-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oh in view of Belknap and further in view of Tsushima et al (U.S. Patent No. 7,269,550, hereinafter "Tsushima"). The Applicant respectfully submits that claims 2-3, 7-8 and 12-13 depend either directly or indirectly from independent claims 1, 6 and 11, respectively. Applicant believes that claims 1, 6 and 11 are allowable over the proposed combination of references, in that Tsushima fails to overcome the deficiencies of Oh in view of Belknap, as set forth above. Because claims 2-3, 7-8 and 12-13 depend from independent claims 1, 6 and 11, respectively, Applicant respectfully submits that claims 2-3, 7-8 and 12-13 are allowable over the proposed combination of Oh in view of Belknap and further in view of Tsushima, as well. Applicant also asserts that each of claims 2-3, 7-8 and 12-13 is independently allowable. Therefore, for at least the reasons set forth above, Applicant respectfully requests that the rejections of claims 2-3, 7-8 and 12-13 under 35 U.S.C. §103(a) be withdrawn.

Final Matters

The Office Action makes various statements regarding former claims 1-18, 35 U.S.C. § 103(a), the Oh reference, the Belknap reference, the Tsushima reference, one skilled in the art, etc. that are now moot in view of the previously presented amendments and/or arguments. Thus, the Applicants will not address all of such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicant reserves the right to argue additional reasons supporting the allowability of claims 1-18 should the need arise in the future.

CONCLUSION

Applicant respectfully submits that claims 1-18 are in condition for allowance, and requests that the application be passed to issue.

Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Please charge any required fees not paid herewith or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

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Respectfully submitted,

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